

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Tuesday, October 13, 2009 at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

F. James Ahlberg
Pamela Coerse
Ronda S. DeSplinter
Kimberly B. Kacani, Vice Chair
Douglas Kleine
Barry S. Lineback
Milton W. Matthews
R. Lee Merritt
Scott E. Sterling
Lucia Anna Trigiani, Chair

Board member Katherine Waddell was not in attendance.

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Mark N. Courtney, Deputy Director of LRD
Trisha L. Henshaw, Executive Director
Thomas K. Perry, Property Registration Administrator
Betty C. Jones, Administrative Assistant

Steven Jack from the Office of the Attorney General was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 2:08 p.m. **Call to Order**

Ms. Trigiani introduced the newest Board member, Barry Lineback, who was appointed to serve as a citizen member. **Introduction of New Board Member**

Mr. Sterling moved to approve the agenda. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Lineback, Matthews, Merritt, Sterling, and Trigiani. **Approval of Agenda**

Chair Trigiani opened the floor for public comment. No members of the public present requested to speak.

Public Comment

The Board was presented with a proposed Agreement for Licensure for Liberty Management and Development Corporation (Liberty). At its meeting on July 21, 2009, the Board denied Liberty's application for a common interest community manager provisional license. Subsequent to that action, Liberty appealed the Board's denial of the provisional license to the circuit court. In addition, Liberty submitted an application to the Board for a common interest community manager license. In an effort to dismiss the pending litigation and obtain the common interest community manager license, Liberty Management and Development Corporation has offered an Agreement for Licensure for the Board's consideration.

**Board Business/
Consideration of
Agreement for
Licensure for
Liberty
Management and
Development
Corporation**

Mr. William H. Hurd, Esquire, and Mr. Stephen D. Rosenthal, Esquire, attorneys for Liberty Management and Development Corporation, were present and addressed the Board. Messrs. Hurd and Rosenthal both stated their client's goal for resolving this issue in a manner that fairly accommodates the Board's concerns while allowing Liberty to continue serving its clients. Mr. Motawie, President of Liberty Management and Development Corporation (applicant), was also present.

Ms. Trigiani discussed the consideration of the proposed Agreement for Licensure for Liberty Management and Development Corporation. There are two items to consider: the proposed Agreement for Licensure and the pending litigation.

At 2:11 p.m., Ms. Kacani offered a motion which was seconded by Mr. Matthews, that the Board meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by § 2.2-3711.A.7 of the Code of Virginia. The following non-members will be in attendance to reasonably aid the consideration of the topic: Jay DeBoer, Mark Courtney, and Trisha Henshaw.

Closed Session

The motion was made with respect to the matter identified as agenda item: IV. Consideration of Agreement for Licensure for Liberty Management and Development Corporation.

At 3:55 p.m., a motion was made by Mr. Matthews and seconded by Mr. Kleine that the Board reconvene in open session.

WHEREAS, the Common Interest Community Board has convened a

Certification

closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by this Common Interest Community Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Common Interest Community Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Common Interest Community Board.

VOTE: 10-0-0-1

AYES: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Lineback, Matthews, Merritt, Sterling, and Trigiani.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: Waddell.

The Board discussed a memorandum from Ms. Henshaw regarding the Board providing interpretations of statutes related to its programs. Ms. Henshaw requested that the Board consider whether or not it would entertain requests for interpretations that go beyond those interpretations necessary to administer its programs, enforce the regulations, and make case decisions. After discussion, the Board agreed by consensus to limit its review to those interpretations that fall within the scope of the Board's authority.

**Discussion of Board
Interpretations of
Relevant Statutes**

The Board reviewed a request for an interpretation on ownership of condominium units by a property owners association. After discussion, Ms. Kacani moved to decline providing an interpretation as it is outside the Board's authority. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Lineback, Matthews, Merritt, Sterling, and Trigiani.

**Interpretation on
Ownership of
Condominium Units
by a Property
Owners Association**

A motion was made by Ms. Kacani to adopt the Agreement for

Consideration of

Licensure for Liberty Management and Development Corporation, with amendments as follows:

- Clarify that the Common Interest Community Manager License was issued pursuant to 18 VAC 48-50-90.
- Liberty and Motawie agree to provide to the Board, for two years, a copy of the review or audit, complete with all footnotes, conducted in accordance with 54.1-2346.E of the Code of Virginia within 90 days of the end of Liberty's fiscal year, which shall remain confidential to the extent allowed by the Virginia Freedom of Information Act.
- Liberty acknowledges that failure to comply with terms 1-6 of the Agreement shall result in the automatic suspension of Liberty's license, and may constitute grounds for revocation of the license by the Board pursuant to the Administrative Process Act §§ 2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended.

**Agreement for
Licensure for
Liberty
Management and
Development
Corporation**

In accordance with the Agreement for Licensure, Liberty Management and Development Corporation's application for a common interest community manager license is approved by the Board.

Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Lineback, Matthews, Merritt, Sterling, and Trigiani.

Ms. Trigiani commended Mr. Perry for filling in while Ms. Henshaw was absent. Ms. Trigiani also welcomed Ms. Henshaw's return.

Other Business

The Board agreed by consensus to begin its next meeting at 9:00 a.m.

Ms. Trigiani suggested that staff resend the Common Interest Community Ombudsman Regulations to the Board members so they can review before the next meeting.

The Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest
and Travel Voucher
Forms**

There being no further business, the meeting was adjourned at 4:20 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary

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